

ZAPATA vs. MARTINEZ, et al.
1:21-cv-00083-MV-JFR

Susie Zapata
March 30, 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SUSIE ZAPATA AND MONICA GARCIA,

Plaintiffs,

v.

Case 1:21-cv-00083-MV-JFR

LEON MARTINEZ, ROBERTA LUCERO-ORTEGA,
ARTHUR SANCHEZ, BERLEEN ESTEVAN,
and SUMMER FOOD SERVICE, LLC,

Defendants.

DEPOSITION OF SUSIE ZAPATA

March 30, 2022

9:30 a.m.

All Participants Appeared Through Zoon Videoconference

The Deponent Was Located at:
The Law Offices of NM Prison & Jail Project
3800 Osuna Road, NE, Suite 2
Albuquerque, New Mexico

PURSUANT TO THE FEDERAL RULES OF CIVIL PROCEDURE,
this deposition was:

TAKEN BY: LISA ENTRESS PULLEN, ESQ.
ATTORNEY FOR DEFENDANTS BERLEEN ESTEVAN
AND SUMMIT FOOD SERVICE

REPORTED BY: TANYA M. NIMS, RPR, NM CCR #168
WILLIAMS & ASSOCIATES COURT REPORTING, LLC
317 Commercial Street, Northeast
Suite G-101
Albuquerque, New Mexico 87102

ZAPATA vs. MARTINEZ, et al.
1:21-cv-00083-MV-JFR

Susie Zapata
March 30, 2022

Page 118

1 time, and I know Ms. Moulton has questions. I may have a
2 few more for you, Ms. Zapata, but I'd like to turn you to
3 Ms. Moulton right now. And like I said, I may have a few
4 other questions at the end. Thank you very much.

5 THE DEPONENT: Thank you.

6 EXAMINATION

7 BY MS. MOULTON:

8 Q. Good afternoon. I have lots of questions. But
9 one of the first things I want to do, Ms. Zapata, is to
10 talk to you about when you arrived at Springer and when
11 you arrived at Western.

12 My records indicate that according to dates of
13 receipt that are in your inmate file, that you arrived at
14 Springer on February 14th of 2017. Does that sound
15 correct to you?

16 A. Yes, ma'am.

17 Q. Okay. And then that you arrived at Western on
18 May 25th of 2017. Does that sound correct?

19 A. Yes, it sounds -- it sounds correct.

20 Q. Okay. And then, finally, the medical records --
21 or the records from Healthcare for the Homeless indicate
22 that you checked back in with them after having been
23 incarcerated at Western on 12 of 2019, specifically on
24 December 19th, 2019.

25 You had originally said that you were

Page 120

1 other than Monica?

2 A. My children.

3 Q. All three of your children?

4 A. No. Just my -- my boys. That would be Eduardo
5 Junior Contreras and Elias Contreras.

6 Q. And how long have they actually lived with you?

7 A. Eduardo has been with me for over a year now.

8 And Elias just moved back with me I want to say the end of
9 February.

10 Q. And where -- had they been with your step-sister
11 before that?

12 A. No. They were with my aunt in Washington at the
13 time.

14 MS. MOULTON: Okay. All right. I want to go to
15 your answers to NMCD's discovery, so we can make it
16 worthwhile for Mr. Allen having printed those out for us
17 to look at. Thank you, Mr. Allen.

18 MR. ALLEN: You're welcome.

19 Q. (By Ms. Moulton) If you could please go to
20 page 4, bottom of page 4. I asked you about other
21 lawsuits that you've had. And you talked in the top of
22 page 5 about a landlord-tenant dispute. What was that
23 about?

24 A. I was out on probation. And I believe this was
25 like around 2015, '16. I was renting an apartment. And I

Page 119

1 incarcerated until 2020. But that's not correct; is it?

2 A. No. No.

3 Q. You got out in December of 2019?

4 A. Yeah.

5 Q. Is that right?

6 A. Yeah.

7 Q. Yeah. Okay. And you started -- I don't know
8 exactly when you got out. But it looks like you checked
9 back in with Healthcare for the Homeless, like I said, on
10 December 19th of 2019.

11 A. Yes, ma'am.

12 Q. And shortly after that you started seeing
13 Mr. Porter again.

14 A. Yes, ma'am.

15 Q. And it indicates, seems to suggest in looking at
16 your records that the last date you saw Mr. Porter was in
17 August of '21. Is that correct? Have you seen -- have
18 you been seeing someone other than Mr. Porter since that
19 time or?

20 A. No. I've only seen Mr. Porter. So that might be
21 accurate.

22 Q. Okay. And where did Mr. Porter go?

23 A. I don't know the name of the organization. I
24 just know he left to a different organization.

25 Q. Okay. All right. Who resides with you currently

Page 121

1 ended up violating, and they sent me back to prison. So I
2 wasn't there to explain to them that I went back to jail
3 or anything.

4 So I lost the apartment. And I know I had owed
5 them I think the month's rent. So I think that's why they
6 were trying to dispute with me that in court. But I was
7 incarcerated, so they couldn't.

8 Q. Okay. All right. The thing that's confusing
9 about what you just said is that this is listed as 2008.

10 A. Oh, wow. Okay.

11 Q. So was there some other landlord-tenant dispute
12 in 2008?

13 A. Yes, there was.

14 Q. What was that?

15 A. I lost my apartment. Unfortunately, the person
16 that I was with at the time, I was giving them the money
17 to pay the rent. And instead of paying the rent, they
18 were getting -- they were abusing drugs.

19 So I came home from work to find an eviction
20 notice on my door. And I had to move out. So what they
21 wanted was the money that I owed them for rent. That's
22 why I left there.

23 Q. And then in continuing down there, in 2016, drug
24 trafficking, criminal charges were dismissed but there was
25 an accompanying parole violation. Tell me about that drug

ZAPATA vs. MARTINEZ, et al.
1:21-cv-00083-MV-JFR

Susie Zapata
March 30, 2022

Page 170

1 A. There was like a few times where we seen
2 attorneys walking around, but I don't know if they were
3 like part of the Duran attorneys. I know I seen my -- my
4 old attorney going over there to visit somebody. Laura
5 Ives.
6 Q. You saw her there?
7 A. Yeah, I saw her going over there to see somebody.
8 Q. Did you have conversations with her?
9 A. I remember saying hi to her. It was like really
10 short, you know. We're not really allowed to talk to
11 them. Like I think she was being escorted by somebody or
12 something like that. So I know that they were like
13 rushing us to -- so I just said hi and bye.
14 Q. So you don't know the purpose of her visit?
15 A. No. I believe -- I believe she went there to go
16 see somebody though. I believe actually it was my fiancée
17 Monica. It's some case. Monica's friend who got shot and
18 she was like following up with her because I guess Monica
19 was like a witness to the whole situation. So she was
20 following up with her about the case, so.
21 Q. So she was there to see Monica?
22 A. Yeah.
23 Q. Oh, okay. Any -- any other attorneys that you've
24 seen walking around?
25 A. My other attorney from -- Alexandra Smith.

Page 171

1 Q. Right.
2 A. I've seen her there too.
3 Q. Have you ever talked to her?
4 A. A quick brief, hi, how are you doing. And then
5 that was it, you know. That's it. Like at the time that
6 I've seen her, like we weren't really like -- we were
7 standing out where there was like a lot of coming in and
8 out of traffic.
9 And the guards were like panicking because they
10 were there. So they like locked us down pretty much and
11 told us to go back in the unit.
12 Q. All right. How many grievances or informal
13 complaints did you submit?
14 A. I want to say -- I want to say about -- gosh -- a
15 little more than a few, you know. I would say four or
16 maybe five.
17 Q. So between four and five?
18 A. I would say so, yes.
19 Q. Okay. And you don't recall when they were
20 submitted; is that correct?
21 A. Yes. Correct.
22 Q. And how did you submit them?
23 A. I put them -- I put some in the box, the informal
24 box -- the informal grievance box.
25 Q. Okay.

Page 172

1 A. And I handed some to CO's.
2 Q. Do you recall any CO's specifically that you
3 handed them to?
4 A. Not that I can remember.
5 Q. You never saw Mr. Martinez, former warden
6 Martinez in the facility? You never saw him?
7 A. Not that I can recall, no.
8 Q. And you never had a conversation with him?
9 A. No, definitely not.
10 Q. Is that true for Ms. Lucero-Ortega as well? Did
11 you see her in the facility?
12 A. I don't think so, honestly.
13 Q. And no conversations with her?
14 A. No.
15 Q. And you only had that one conversation that you
16 talked about with Mr. Sanchez?
17 A. Yes. That I can remember, yes.
18 Q. In your complaint you say -- in paragraph 60 of
19 your amended complaint, you say that Defendant Sanchez,
20 Lucero-Ortega, and Martinez required Defendant Estevan to
21 conduct preinspection cleanings of the kitchen. Do you
22 recall that allegation?
23 A. Sorry. Which one? Can you repeat that again?
24 Q. Sure. In your paragraph 60 of the amended
25 complaint, you state that Defendants Martinez, Sanchez,

Page 173

1 and Lucero-Ortega required Defendant Estevan to conduct
2 preinspection cleanings of the kitchen. Do you remember
3 that?
4 A. Yes, I do remember that.
5 Q. And what is the basis of that belief?
6 A. The basis of that belief is that obviously they
7 know Ms. Estevan runs the kitchen. They know Ms. Lucero
8 and Mr. Ortega Ortiz {sic}, they're in very high position
9 to what goes on in that -- in that facility.
10 And if we're getting inspection, it's --
11 everybody knows when we're getting an inspection.
12 Everybody knows. For some reason, everybody knows. So it
13 wasn't -- it wasn't a surprise to -- to not -- for when
14 she came and told us we were having an inspection, it
15 wouldn't be a surprise that they would not know.
16 I mean, it would have to come from them. You
17 know, he's the warden of the prison. You know, she's the
18 assistant warden. Like how would you not know what's
19 going on in the prison.
20 Q. Okay. So your -- the basis of your allegation
21 is, No. 1, that because they are the warden they know
22 about inspections?
23 A. I believe so, yes. I believe that, yes.
24 Q. And did you ever hear anybody tell them about the
25 inspection, either Martinez or Sanchez or Lucero-Ortega?